

INSTRUCTIONS FOR FILING OF A MOTION FOR AN ORDER TO GARNISH SPOUSES WAGES ON A NON-DEBTOR SPOUSE

The wages of a Judgment Debtor's spouse (A Spouse Not listed on the Claim and Judgment) may be garnished as follows:

1. The Judgment Creditor may make a **MOTION FOR AN ORDER TO GARNISH NON-DEBTOR SPOUSE'S WAGES** to the court where the Judgment is entered. **THIS MUST BE A NOTICED MOTION.** [CCP 706.109].
2. The party making the Motion **MUST SERVE** the Non-Debtor spouse (the spouse not on the Claim and Judgment) with a **COPY OF THE MOTION AND COPY OF THE JUDGMENT** at least 15 days prior to the Hearing; if by mail within California at least 20 days prior to the Hearing, or if by mail outside the state of California at least 25 days prior to the Hearing, [CCP1005(b)] by:
 - a. Registered Mail Return Receipt requested. The Judgment Creditor may do this at the Post Office himself/herself since the Postman is effectively doing the service. (Keep in mind, the Non-Debtor spouse **MUST** sign the Receipt or service is not effective) [CCP1020], OR;
 - b. Personal Service, (By someone over 18 and Not a party to the action) [CCP 1011], OR;
 - c. Substituted Service (By someone over 18 and Not a party to the action).
 - A copy of the **MOTION AND JUDGMENT** must be left at the home or usual place of business of the Non-Debtor Spouse with someone over 18 years old, competent and apparently in charge. They must be informed of the nature of the papers served, AND;
 - A copy of the **MOTION AND JUDGMENT** must then be mailed to the Non-Debtor Spouse by the server to the address where the first copy was left. It must be mailed by first class mail, postage prepaid. Service is deemed complete on the 10th day after mailing. **THEREFORE**, the mailing **MUST** be completed at least 25 days prior to the hearing date. (If Out-of-County Service, the mailing **MUST** be completed at least 30 days prior to the hearing date). [CCP 415.20]

3. A Proof of Service **MUST** be filed with the Clerk of The Small Claims Court prior to your Hearing Date.
4. The **ORIGINAL PARTIES** (The Plaintiff and Defendant listed on the Claim And Judgment) will be sent Notice of the Hearing on the **MOTION** by the clerk of the Small Claims Court. The Judgment Creditor **DOES NOT** have to serve them.

NOTE: The Moving Party must **PREPARE AND SUBMIT AN ORDER** for Signature of the Commissioner. To enforce the writ against the Non-Debtor Spouse, take a **CERTIFIED COPY** of the **ORDER AND WRIT OF EXECUTION** to the Sheriff.

***If you have any questions concerning these instructions, you may contact a Small Claims Legal Advisor at (619) 236-2471 or speak with an Advisor located at this Court in Trailer KM-4.